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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/698,415	11/03/2003	Aline Abergel	231191US26	2252
22850	7590	12/09/2004	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			WEEKS, GLORIA R	
			ART UNIT	PAPER NUMBER
			3721	

DATE MAILED: 12/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/698,415	Applicant(s) ABERGEL, ALINE	
	Examiner Gloria R Weeks	Art Unit 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 September 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 19-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/03/03</u> . | 6) <input type="checkbox"/> Other: _____ |

Election/Restrictions

1. Applicant's election with traverse of claims 1-18 in the reply filed on September 21, 2004 is acknowledged. The traversal is on the ground(s) that Applicant finds no burden on the Examiner to search all of the claims of the application. This is not found persuasive because Examiner finds that the process claims of Group II describe a device as shown in Figures 3A-3F, which describe a device having a support and lid formed from a solitary plate, wherein the support and lid are separated by a groove formed in the plate. The device of Group I is not limited to such a device, since it also encompasses a device, as shown in Figures 1 and 2, which includes a support and lid formed from two separate plates, the two plates being "articulated" by an adhesive sheet fixed to both the support and lid. Therefore, Examiner has deemed the restriction to be proper since the device of Group I is not limited to being manufactured by the process disclosed in Group II.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 19-21 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on September 21, 2004.

Priority

3. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 1-18 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Examiner is unsure as to whether Applicant is claiming a device that has at least two mirror stickers of which at least one is bonded to a face of the lid and another sticker being bonded to a face of the support. Examiner referred to pages 6-9 of the specification for clarification of this matter, and Examiner only found element 70 to be disclosed as a mirror, and element 40 to be merely disclosed as a sticker. This uncertainty is based on lines 7-13 of claims 1 and 16, which appears to claim at least two stickers forming a mirror, although only one sticker former a mirror is disclosed in the specification.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-⁷~~6~~ and 10-18 rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly (Pub. No. US 2004/0003825) in view of Guiard (WO 97/15910).

In reference to claims 1-6 and 10-18, Kelly discloses a device for packaging a product comprising: a flat support (14) including at least one cavity (14a) that passes at least partially through the support (14) and opens on a first face of the support (14), and wherein the cavity (14a)

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contains a cosmetic product (12); a flat lid (16) articulated to the support (14) by an arrangement comprising at least one of: i) a sticker (22) forming a mirror adhesively bonded (page 2 paragraph 19) onto one of the faces of the lid (16); and ii) a thermoplastic (page 2 paragraph 21) sheet (24) removably adhered onto one face of the lid (16) and onto one face of the support (14) wherein the adhesive sheet (24) closes off a second opening in the support which contains the product (12; page 3 paragraph 27). Kelly does not disclose a sticker forming a mirror adhesively bonded to the support.

Guiard teaches a device for packaging a product comprising: a flat support (12) including at least one cavity (16) that passes through the support (12) and opens on a first and second face of the support (12), and wherein the cavity contains a cosmetic product (20); a sticker (26) forming a mirror (made of foil which is a reflective material) adhesively bonded to a first face of the support (12); and an adhesive sheet (22) fixed to a second face of the support (12) whereby the adhesive sheet closes off the cavity of the support (12). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the device of Kelly to include the mirror sticker on the support of Guiard for the purpose of protecting the product contained in the cavity of the support.

Regarding claims 11-12, Kelly does not disclose the specific dimensions or thickness of the lid and support. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a lid and support having a thickness of .5 mm-2 mm, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art.

With respect to claim 7, Kelly does not disclose printed matter on the adhesive sheet that articulates the lid to the support. Nevertheless, it would have been obvious to one having ordinary

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skill in the art at the time the invention was made to provide printed matter on the sheet or sticker adhesively bonded to the lid and support since Examiner takes Official Notice that it is well known in the art of packaging to provide an adhesive label with a printed design to the outside surface of a package for the purpose of decoration or disclosing the contents of the package.

8. Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly (Pub. No. US 2004/0003825) in view of Guiard (WO 97/15910) as applied to claim 1, and further in view of Coburn, Jr. (USPN 4,491,389).

With respect to claims 8 and 9, Kelly in view of Guiard discloses adhesive foil sheets, which has reflective qualities and is capable of acting as a mirror, but does not disclose the specifics of the composition of the foil sheet. Coburn, Jr. teaches a device does not disclose the adhesive sheet as being a thermoplastic (28) with a layer of paint (30) forming a mirror, wherein the term paint is defined as a thin dry film formed from a liquid mixture having a solid pigment. It would have obvious to one having ordinary skill in the art at the time of the invention to further modify the device of Kelly to include the mirror of Coburn, Jr. for the purpose of reducing cost. The use of such mirrors is also well known in the art of toys for the purpose of increasing safety by removing the need to use glass for reflective or mirror surfaces.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Refer to attachment for notice of references cited and recommended for consideration based on their disclosure of limitations of the claimed invention.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gloria R Weeks whose telephone number is (703) 605-4211. The examiner can normally be reached on 7:30 am - 6:00 pm Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott A Smith can be reached on (703) 308-2190. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gloria R Weeks
Examiner
Art Unit 3721



grw
December 2, 2004



SCOTT A. SMITH
PRIMARY EXAMINER